REMARKS

The Examiner's Office Action mailed June 22, 2007, which rejected all pending claims, has been reviewed. Reconsideration in view of the foregoing remarks is respectfully requested. Moreover, Applicants have reviewed the Office Action of June 22, 2007, and submit that the following Remarks are responsive to all points raised therein. Applicants believe that currently pending claims 8-12 are now in form for allowance.

Status of Claims

Claims 8-12 are pending in the application. No new matter has been added.

Rejection of Claims 8-12 under 35 USC § 102(e)

Reconsideration is requested of the rejection of claims 2-8 under §102(e) as being unpatentable over Arther (US Patent Publication No. 20020103233).

Even if two patent applications have different inventive entities, it does not necessarily mean that the earlier filed patent application is prior art to the later filed patent application. The issue becomes who invented the subject matter. In particular, if the disclosure in the earlier filed patent application is the later filed Applicant's own previous work, Applicant may be able to overcome a *prima facie* case of anticipation over the first filed application with a declaration under 37 CFR 1.132.[1]

Applicants have attached two declarations, one by one of the inventors of the present application, Kirkor Sirinyan, and one by the inventor of US Patent Application No. 09/727,117 (US Patent Publication No. 20020103233), Robert Arther. From these declarations it is clear that the disclosure included in US Application No. 09/727,117, in particular in regards to a formulation that includes N-methylpyrrolidone (NMP) was conceived by the Applicant of the present invention, Kirkor Sirinyan, and is Applicant's own work. As such, the disclosure in Arther is not prior art to the present application.

[1] MPEP 2136.05; See In re Mathews, 408 F2d 1393, 161 USPQ 276 (CCPA 1969).

For all the reasons stated above, Arther does not anticipate claim 2. Claims 3-8 depend directly or indirectly from claim 1 and as such are patentable over Arther.

Rejection of Claims 8-12 under Double Patenting Rejection

Reconsideration is requested of the rejection of claims 2-8 under nonstatutory obviousness-type double patenting as being unpatentable over claims 9-12, 16, and 17 of U.S. Patent Application No. 09/727,117.

As evidenced by the attached recorded assignment, both the present application and US Patent Application No. 09/727117 are commonly owned. Attached we have also submitted a terminal disclaimer for the present application. As such, Applicants request withdrawal of the double patenting rejection of claims 2-8 and allowance of the claims.

Conclusion

In view of the above, Applicants respectfully submit that the pending claims are novel and not obvious over the cited reference and request withdrawal of all rejections and allowance of the claims.

The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment in connection with this amendment to Deposit Account No. 50-4260.

Respectfully submitted,

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